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இணைப்பு III

[147 ஆம் பக்கத்தில் இனம் 4 (1)-க்கான அடிக்குறிப்பைக் காண்க.]

L.A. BILL No. 11 OF 1973.

(As passed by the Asesmbly.)

A Bill to provide for conferring on the cultivating tenants the right to purchase the landowners' rights in the land cultivated by such cultivating tenants and for conferring the right of resumption of land by landowners in the State of Tamil Nadu.

BE it enacted by the Legislature of the State of Tamil Nadu in the Twenty-fourth Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Tamil Nadu Cultivating Tenants (Right to purchase Land owners' Rights) Act, 1973.

(2) It shall come into force on such date as the Government may, by notification, appoint.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(i) “authorised officer” means any Gazetted Officer authorized by the Government by notification to exercise the powers conferred on, and discharge the duties imposed upon, the authorized officer under this Act for such area as may be specified in the notification ;

(2) “cultivating tenant”—

(a) in relation to any land to which the Tamil Nadu Cultivating Tenants Protection Act, 1955 (Tamil Nadu Act XXV of 1955), applies, means a cultivating tenant as defined in clause (aa) of section 2 of that Act and includes—

(i) a *mattuvaramdar* referred to in clause (a) or clause (b) of section 7 of the Tiruchirappalli *Kaioeruvaram* and *Mattuvaram* Act, 1958 (Tamil Nadu Act XXXVI of 1958); and

(ii) a possessory mortgagor, who, under a tenancy agreement, express or implied, with the possessory mortgagee, contributes his own physical labour or that of any member of his family in the cultivation of the land subject to possessory mortgagee ; and

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(b) in relation to any land to which the Tamil Nadu Public Trusts (Regulation of Administration of Agricultural Lands) Act, 1961 (Tamil Nadu Act 57 of 1961), applies, means a cultivating tenant as defined in clause (5) of section 2 of that Act ;

(3) " Government " means the State Government ;

(4) " holding " means a parcel or parcels of land held by a cultivating tenant ;

(5) " land " means a land used for purposes of agriculture or horticulture, or for purposes ancillary thereto, and includes any waste, vacant or forest land appurtenant thereto belonging to the landowner and let to the cultivating tenant under the same tenancy agreement but does not include any building or any house-site let to such cultivating tenant by such landowner ;

(6) " landowner " means the owner of the land let for cultivation by a cultivating tenant and includes the heirs, assignees or legal representatives of such owner or persons deriving rights through him ;

(7) " member of the Armed Forces " means a person in the service of the Air Force, Army or Navy of the Union of India and includes a seaman ;

Provided that if a question arises whether any person is a member of the Armed Forces, such question shall be decided by the Government and their decision shall be final ;

(8) " notified date " means the date specified by the Government in the notification, issued by the Government under subsection (2) of section 1 ;

(9) a person is said to carry on personal cultivation on a land when he contributes his own physical labour or that of the members of his family in the cultivation of that land ;

(10) " possessory mortgagee " means a mortgagee entitled to the possession of the whole or part of the mortgaged property and to receive the rents and profits accruing from such property or any part of such rents and profits and to appropriate the same in lieu of interest or in payment of the mortgage money or partly

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in lieu of interest or partly in payment of the mortgage money ; and “ possessory mortgage ” and “ possessory mortgagor ” shall be construed accordingly ;

(11) “ seaman ” means every person including a master, pilot or apprentice employed or engaged as a member of the crew of a ship or sailing vessel to which the Merchant Shipping Act, 1958 (Central Act 44 of 1958), applies ;

(12) “ standard acre ” shall have the same meaning as in clause (40) of section 3 of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 (Tamil Nadu Act 58 of 1961).

3. *Cultivating tenant's right to purchase landowner's rights.*— Subject to the provisions of section 15, any cultivating tenant shall be entitled to purchase the right, title and interest of the landowner in respect of the land comprised in his holding as cultivating tenant :

Provided that the total extent of the—

(i) Land owned by such cultivating tenant and personally cultivated by him already,

(ii) land owned by him and resumed from any cultivating tenant under this Act,

(iii) land owned by him which has been let out to any cultivating tenant but has not been purchased by such cultivating tenant under this section,

(iv) land held by him as cultivating tenant which has been purchased by him under this section,

(v) land held by him as cultivating tenant which has not been purchased by him under this section,

(vi) land held by him as cultivating tenant, which has not been resumed under this Act by the land owner concerned, shall not exceed 5 standard acres.

4. *Extent of land share in the family to be taken into account.*— In calculating the extent of land owned by a person or held by him as cultivating tenant or as both, the share of such person in the land held in such capacity by an undivided Hindu family, a Marumakkattayam tarwad, an Aliyasanthana family or a Nambudiri Illom shall be taken into account.

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Explanation.—For the purposes of this section, the share of such person as is referred to in this section in the land held by an undivided Hindu Family, a Marumakkattayam tarwad, an Aliyasanthana family or a Nambudiri Illom shall be deemed to be the extent of land which is held on the notified date and would have been allotted to such person had such land been partitioned or divided, as the case may be, on such date.

5. *Application to purchase landowner's rights by cultivating tenant.*—(1) A cultivating tenant entitled to purchase the right, title and interest of the landowner under section 3 may apply to the authorized officer within such period as may be prescribed from the notified date for the purchase of such right, title and interest.

(2) The application for the purchase under sub-section (1) shall be in such form and shall contain such particulars as may be prescribed.

(3) Where a cultivating tenant is entitled to purchase the right, title and interest in respect of only a portion of the land held by him, he may indicate in the application his choice of the portion, the right, title and interest over which he desires to purchase.

6. *Purchase price.*—(1) The purchase price payable by a cultivating tenant for the purchase of the right, title and interest of the landowner shall be—

(a) in case the price can be fixed by agreement, the price paid in accordance with such agreement ;

(b) where no such agreement can be reached, the aggregate of—

(i) twelve times the fair rent in respect of the holding or part thereof to which the purchase relates ; and

(ii) one-half of the value of the structures, wells, and pump-sets belonging to the landowner.

(2) The fair rent referred to in sub-section (1) shall be the aggregate of—

(a) (i) in the case of wet land, 40 per cent of the normal gross produce or its value in money ;

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(ii) in the case of wet land, the irrigation of which is supplemented by lifting water, 35 per cent of the normal gross produce or its value in money ;

(iii) in the case of land on which crops, which do not give any yield within a period of one year from the time of cultivation, are cultivated, 40 per cent of the normal gross produce or its value in money ;

(iv) in the case of any other class of land, 33 1/3 per cent of the normal gross produce or its value in money :

Provided that in the case of lands referred to in items (ii) and (iv) for the cultivation of which water is lifted by pump-set installed at the cost of the landowner, the fair rent shall be increased to 40 per cent.

Explanation I.—In this sub-section, “normal gross produce”—

(a) in respect of a land cultivated with any crop which does not give any yield within a period of one year from the time of cultivation, means the gross produce for one year if the land were cultivated with paddy ;

(b) in respect of a land cultivated with any other crop means the produce which would be obtained for one year from a land of the same class as the land in question similarly situated and possessing similar advantages if the rainfall and the seasons were normal.

Explanation II.—(a) In the case of land on which different crops are cultivated at different times on different portions of the land, the fair rent shall be calculated with reference to the actual crops ordinarily cultivated according to the ordinary rotation of crops in the area in which such land is situated ; and

(b) the value of one-fifth of the straw or stalk of all the crops cultivated on the land in an agricultural year.

(3) In determining the normal gross produce of any land for purposes of sub-section (2), the return made under section 16 of the Tamil Nadu Agricultural Income-tax Act, 1955 (Tamil Nadu Act V of 1955) in respect of that land shall be taken into account.

(4) The value for purposes of clause (b) (ii) of sub-section (1) shall be determined in accordance with such rules as may be made in this behalf.

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7. *Procedure to be followed by the authorized officer.*—(1) As soon as may be after the receipt of the application under section 5, the authorized officer shall give notice within a period of 30 days to the land owner and all other persons interested in the holding, to prefer claims or objections with regard to the application.

(2) The authorized officer shall, after considering the claims and objections received and hearing any person appearing in pursuance of the notice issued under sub-section (1) and after making due enquiries, pass orders.

(3) Where the cultivating tenant is entitled to purchases only a portion of the land left after resumption by the landowner under section 15, the authorized officer shall, as far as possible, allow the purchase of the portion indicated in the application under sub-section (3) of section 5.

(4) Where the right, title and interest of the landowner vested in the cultivating tenant form part of the security for any encumbrance or charge for maintenance or alimony, the authorized officer shall, for the purpose of discharging the same, apportion the entire encumbrance or the charge for the maintenance or alimony between the portion of the land, the right, title and interest over which vested in the cultivating tenant and the portion remaining after such vesting in proportion to the values of the two portions of the property, and discharge only the liability pertaining to the portion to which he purchase relates.

(5) An order under sub-section (2) allowing the application shall specify—

- (i) the purchase price payable by the cultivating tenant;
- (ii) the value of encumbrances subsisting or claims for maintenance or alimony charged on the right title and interest of the landowner ;
- (iii) the amount payable to the holder of the encumbrance or the person entitled to the maintenance or alimony and the order of priority in which such amount is payable ; and
- (iv) the amount payable to the landowner after deducting the value of the encumbrances or the claims for maintenance or alimony.

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(6) If the landowner is liable to pay any amount to the cultivating tenant, the authorized officer shall, in passing orders on the application for purchase, set off such amount against the Purchase price payable to the landowner.

(7) The authorized officer shall, as soon as may be, forward a copy of the orders under sub-section (2) to the Board of Revenue.

8. *Purchase price payable in instalments or in lumpsum.*—The purchase price determined under section 7 shall be payable in twelve equal annual instalments :

Provided that where the purchase price is less than Rs. 500 it shall be paid in one lumpsum :

Provided further that it shall be open to the cultivating tenant to pay the entire purchase price in a lumpsum, in which case the amount payable shall be only seventy-five per cent of the purchase price.

9. *Deposit of purchase price and issue of certificate of purchase.*—(1) Where an application under section 5 has been allowed and the purchase price determined under section 7 by the authorized officer, the cultivating tenant shall deposit with the authorized officer to the credit of the landowner,—

(i) where the purchase price is proposed to be paid in a lumpsum, the entire amount due within three months ; or

(ii) where the purchase price is proposed to be paid in instalments, the first instalment thereof within three months from the date on which the order of the authorized officer under section 7 has become final :

Provided that the authorized officer, may, on application by the cultivating tenant before the expiry of the said period of three months extend the period for making such deposit, so however that the period so extended shall not exceed three months.

(2) On the deposit of the purchase price in lumpsum or of the first instalment of such price, the authorized officer shall issue a certificate of purchase to the cultivating tenant and thereupon the right, title and interest of the landowner shall vest in the cultivating tenant free from all encumbrances with effect from the date of the application under section 5. The certificate of purchase shall be conclusive proof of the purchase by the cultivating tenant of the right, title and interest of the landowner over the holding of portion thereof.

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Explanation.—For the removal of doubts, it is hereby declared that on the issue of the certificate of purchase, the landowner shall have no right in the land comprised in the holding and all his rights including rights, if any, in respect of trees reserved for his enjoyment shall stand extinguished.

(3) Where a cultivating tenant fails to deposit the purchase price in lumpsum or the first instalment thereof on or before the due date, the order of the authorized officer under section 7 shall stand cancelled and the cultivating tenant shall continue as cultivating tenant.

(4) (a) Where the purchase price is paid in instalments, the second and subsequent instalments shall be paid to the landowner directly in any case where there is no such encumbrance or charge as is referred to in sub-section (3) of section 13.

(b) In any case where there is such encumbrance or charge as is referred to in sub-section (3) of section 13 or in any case where the landowner refuses to receive the instalment paid under clause (a), the second and subsequent instalments shall be deposited in the Government Treasury in the prescribed manner to the credit of the landowner and the fact of such deposit shall be intimated to the landowner or to the holder of the encumbrance or of the charge, as the case may be.

10. *Interest on defaulted instalments.*—If the second or any subsequent instalment of the purchase price is not paid or deposited on the due date, the amount of such instalment shall bear interest at the rate of 5 per cent per annum from that date till the date of payment or deposit of the instalment.

11. *Cultivating tenant to pay rent pending determination of purchase price.*—(1) Notwithstanding the filing of an application under section 5, the cultivating tenant shall, pending the determination of the purchase price under section 6 or, where there has been an appeal against the determination of the purchase price, pending orders on such appeal, deposit with the authorized officer an amount equal to the fair rent which would have been payable by him under the Tamil Nadu Cultivating Tenants (Payment of Fair Rent) Act, 1956 (Tamil Nadu Act XXIV of 1956) or under Chapter IV of the Tamil Nadu Public Trusts (Regulation of Administration of Agricultural Lands) Act, 1961 (Tamil Nadu

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Act 57 of 1961), or under any other law in force or agreement, as the case may be, on the dates on which such rent would have become due :

Provided that the authorized officer may—

(a) on application by the cultivating tenant for sufficient reason allow the applicant to make the deposit after the due date ;

(b) allow any cultivating tenant to deposit the balance amount, if any, where the amount deposited is found to be less than the amount of fair rent.

(2) The authorized officer shall after intimating the landowner, pay the amount deposited under sub-section (1) to the landowner as part payment of the purchase price on taking proper security in case it is found that he is entitled to such amount.

(3) The amount deposited under sub-section (1) shall be deducted from the purchase price payable by the cultivating tenant and he shall be liable to pay only the balance.

12. *Recovery of instalments of purchase price on default.*—For the purchase price payable by the cultivating tenant, there shall be a first charge on the land to which the purchase relates, subject to the charges for any dues payable to the Government. Where the second or any subsequent instalment is not paid or deposited on the due date, the authorized officer may ; on application from any person entitled to the instalment of the purchase price is default or any part thereof, pass an order directing the payment of the amount together with interest thereon and the order of the authorized officer may be executed through the court as if it were a decree passed by it.

13. *Payment of purchase price, amount of encumbrance, maintenance or alimony.*—(1) The purchase price payable to the landowner shall be distributed by the authorized officer according to the provisions of sub-sections (2) to (8).

(2) Where the right, title and interest of the landowner are not subject to any encumbrance or charge for maintenance or alimony, the purchase price paid by the cultivating tenant shall be paid to the landowner.

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(3) Where the right, title and interest of the landowner in respect of a holding are subject to any encumbrance or charge for maintenance or alimony, the purchase price paid by the cultivating tenant shall be paid to the landowner after deducting the value of encumbrance or charge for maintenance or alimony. If the total amount of such encumbrance, maintenance or alimony is equal to or more than the amount of the purchase price payable to the landowner, the whole amount shall be reserve for payment to the holder of the encumbrance, or the person entitled to the maintenance or alimony and no amount shall be paid to the landowner.

(4) Where any amount has been deducted or reserved for payment to the holders of the encumbrances or the persons entitled to the maintenance or alimony, the same shall be paid in their order of priority to the persons entitled thereto.

(5) Where the cultivating tenant pays the purchase price instalments, the amount of each instalment shall be distributed in the manner specified above. The interest on the purchase price paid by the cultivating tenant shall also be paid to the landowner, holder of the encumbrance or the person entitled to the maintenance or alimony, as the case may be.

(6) Where a person entitled to the purchase price or the value of the encumbrance, maintenance or alimony dies before it is paid to him it shall be paid to his legal representatives.

(7) Where the person entitled to receive the purchase price or the value of encumbrance is a private trust or endowment or a minor or a person suffering from some legal disability or a limited owner, the purchase price or the value of encumbrance may, notwithstanding anything contained in any law, but subject to any general directions which the Government may give, be deposited for and on behalf of the person with such authority or bank as may be prescribed.

(8) Where before any court or authority any suit or proceeding is pending which directly or indirectly affects or is likely to affect the right of any person to receive the whole or part of the purchase price or the amount of encumbrance or maintenance or alimony payable under this Act, the court or authority may

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require the authorized officer to place at its disposal the amount so payable and thereupon the same shall be disposed of in accordance with the orders of the court or authority.

14. *Payment of purchase price to the landowner to be full discharge.*—The payment of purchase price or the value of encumbrance, maintenance or alimony to the landowner or other persons entitled thereto in the manner specified in section 9 or section 13, as the case may be, shall be a full discharge of the liability for payment of the purchase price to the landowner, and no further claims for payment of purchase price shall lie.

15. *Resumption for personal cultivation by certain landowners.*—Any landowner who is not liable to pay tax under the Tamil Nadu Agricultural Income-tax Act, 1955 (Tamil Nadu Act V of 1955) or under the Income-tax Act, 1961 (Central Act 43 of 1961), may resume from his cultivating tenant for personal cultivation, a portion of the holding not exceeding one-half of the extent of land let by such landowner to such cultivating tenant:

Provided that the total extent of the —

(i) land owned by such landowner and personally cultivated by him already,

(ii) land resumed by him under this section,

(iii) land owned by him which has been let out to any cultivating tenant but has not been purchased by such cultivating tenant under this Act,

(iv) land held by him as cultivating tenant which has been purchased by him under this Act,

(v) land held by him as cultivating tenant which has not been purchased by him under this Act,

(vi) land held by him as cultivating tenant which has not been resumed under this section by the landowner concerned, shall not exceed 5 standard acres:

Provided further that in the case of any religious, charitable or educational institution, for the purpose of computing the total extent under the first proviso, the extent of land in excess of ten standard acres owned by such institution shall alone be taken into account.

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16. *General conditions and restrictions applicable to resumption under section 15.*—Resumption of land under section 15 shall be subject to the following conditions and restrictions, namely :—

(1) in respect of tenancies subsisting on the notified date, no application for resumption shall be made after such period as may be prescribed ;

(2) the right of resumption in respect of a holding shall be exercised only once, and the order of the authorized officer allowing resumption shall be given effect to only at the end of an agricultural year.

17. *Cultivating tenants from whom land is resumed to be paid compensation for improvements.*—(1) A cultivating tenant from whom land is resumed under the provisions of this Act, shall be entitled to compensation for the value of structures, wells and pumpsets belonging to the cultivating tenant.

(2) The compensation payable under sub-section (1) shall be determined in accordance with such rules as may be made in this behalf.

18. *Procedure for resumption.*—(1) Any landowner desiring to resume any land shall apply to the authorized officer within whose jurisdiction the land is situate for an order of resumption. The application shall be in such form and shall contain such particulars as may be prescribed.

(2) The authorized officer shall duly enquire into the application and pass appropriate orders thereon. Where the order allows resumption, it shall specify the extent and location of the land allowed to be resumed, the rent payable in respect of the portion, if any, that would be left after resumption and such other particulars as may be prescribed and directing the landowner to make, within such time and in such manner as may be prescribed, payments to extinguish the rights of the cultivating tenant who would be affected by such resumption.

(3) The authorized officer may, for sufficient reasons, extend the time prescribed under sub-section (2) for making payments by the landowner.

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(4) The cultivating tenant shall be entitled to opt for the location of the portion of the holding which may be allowed to be resumed, and where the cultivating tenant has not so opted, the location of the portion to be resumed shall be decided by the authorized officer, having regard to the nature, fertility and other conditions of the portion of the land which may be allowed to be resumed and the portion left with the cultivating tenant.

(5) Where any land is resumed after making the payment as directed by the authorized officer, all the rights of the cultivating tenant in such land, shall stand extinguished.

(6) Where a landowner deposits the amounts in accordance with the directions of the authorized officer, the authorized officer shall put the landowner in possession of the land allowed to be resumed, if need be, by removing any person who refuses to vacate the same.

(7) Where a landowner fails to deposit the amounts in accordance with the directions of the authorized officer, the order of resumption shall be treated as cancelled and the landowner shall have no further right for resumption.

19. *Appeal*.—Any person aggrieved by any order of the authorized officer under this Act may within such period as may be prescribed appeal to such authority as may be specified by the Government in this behalf (hereinafter referred to as the appellate authority) and the decision of such authority, on such appeal shall, subject to the provisions of section 20, be final.

20. *Revision by the District Court*.—(1) The District Court may on application or *suo motu* call for and examine the record of any appellate authority in respect of any proceeding under this Act to satisfy itself as to the regularity of such proceeding or the correctness, legality or propriety of any decision or order passed thereon; and if, in any case, it appears to the District Court, that any such proceedings, decision or order should be modified, annulled, reversed or remitted for reconsideration, it may pass orders accordingly :

Provided that the District Court shall not pass any order prejudicial to any party unless he has been given a reasonable opportunity of being heard.

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Explanation.—For purposes of this section, “ district Court ” shall mean—

- (i) in the City of Madras, the City Civil Court ; and
- (ii) in any other area, the Principal Civil Court of Original Jurisdiction.

(2) The application under sub-section (1) shall be made within such period as may be prescribed.

21. *Indemnity.*—No suit, prosecution or other legal proceeding shall lie against the authorized officer, or other authority for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

22. *Bar of jurisdiction of civil courts.*—No civil court shall, except as otherwise provided in this Act, have jurisdiction in respect of any matter which the authorized officer or the appellate authority is empowered by or under this Act to determine and no injunction shall be granted by any court in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

23. *Power to make rules.*—(1) The Government may make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) all matters expressly required or allowed by the Act to be prescribed ;

(b) the manner of communicating to the party, concerned every decision or order in any proceeding against which an appeal or revision is provided for by this Act.

(3) All rules made under this Act shall be published in the *Tamil Nadu Government Gazette* and unless they are expressed to come into force on a particular day shall come into force on the day on which they are so published.

(4) Every rule made under this Act shall, as soon as possible, after it is made, be placed on the table of both Houses of the Legislature and if, before the expiry of the session in which it is so placed or the next session both Houses agree in making

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any modification in any such rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be no effect, as the case may be so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

24. *Exemptions.*— Nothing in this Act shall apply to any land owned or taken on lease by—

(i) the Central Government or any State Government or any local authority ; or

(ii) any company or corporation owned or controlled by the Central Government or any State Government ; or

(iii) any University constituted by any law.

25. *Act not to apply to any member of Armed Forces.*—Nothing in this Act shall apply to any person who is a member of the Armed Forces so long as that person continues to be a member of the Armed Forces.

26. *Act not to apply to certain institutions.*—Nothing in this Act shall apply to an extent of ten standard acres owned by any religious, charitable or educational institution :

Provided that where such institution owns more than ten standard acres, it shall be at the option of such institution to choose any ten standard acres to which the exemption shall apply.

27. *Act not to apply to minors, etc.*—Nothing in this Act shall apply to any land owned by any person who is—

(a) a minor, or

(b) a person of unsound mind, or

(c) a widow, or

(d) a physically disabled person,

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if the total extent of the land owned by such person does not exceed two standard acres and if such person has no other means of livelihood :

Provided that the exemption under this section shall apply only if such person opts for such exemption. Such option shall be intimated to the authorised officer in such manner and within such time as may be prescribed.

28. *Act to override other laws.*—The provisions of this Act shall have effect, notwithstanding anything inconsistent therewith contained in the Tamil Nadu Cultivating Tenants Protection Act, 1955 (Tamil Nadu Act XXV of 1955) or Chapter III of the Tamil Nadu Public Trusts (Regulation of Administration of Agricultural Lands) Act, 1961 (Tamil Nadu Act 57 of 1961) or any other law for the time being in force, custom, usage or contract.

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L.A. Bill No. 12 of 1973.

(As passed by the Assembly)

A Bill further to amend the Tamil Nadu General Sales Tax Act, 1959.

BE it enacted by the Legislature of the State of Tamil Nadu in the Twenty-fourth Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Tamil Nadu General Sales Tax (Amendment) Act, 1973.

(2) (a) Clauses (a) and (b) of section 2 shall be deemed to have come into force on the 23rd February 1973.

(b) Clause (c) of section 2 shall be deemed to have come into force on the 21st February 1973.

(c) Clause (d) of section 2 shall be deemed to have come into force on the 10th March 1971.